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C O N F I D E N T I A L SECTION 01 OF 03 BAKU 000851

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SUBJECT: AMBASSADOR DISCUSSES JUDICIAL REFORM, TRIAL
ACCESS, AND NGO REGISTRATION WITH MINISTER OF JUSTICE

REF: 06 BAKU 1084

Classified By: CHARGE D'AFFAIRES DONALD LU PER 1.4 (B,D).

11. (C) SUMMARY: In a July 2 meeting with Minister of Justice Fikret Mammadov, the Ambassador noted that continued judicial reform and strengthened rule of law are key to Azerbaijan's long-term stability. Mammadov plans to build more courthouses and hire more judges. He anticipated a July appointment of the 55 judicial candidates who passed the fall 2005 judicial exam. Mammadov shared his plans for prison reform, including the construction of several new prison facilities. They discussed the ongoing trial of former Minister of Economic Development Farhad Aliyev, and agreed that transparent conduct of trials is essential. The Ambassador noted U.S. concerns regarding problems with NGO registration, highlighting the Election Monitoring Center, a USAID implementing partner that has been trying unsuccessfully to register for five years. The Minister said he was not aware of the details but promised to look into it. Although Mammadov's attitude was positive, his reform efforts do not appear to have gained much traction over the past year. END SUMMARY

JUDICIAL REFORM

12. (C) The Ambassador opened her July 2 meeting with Minister of Justice Fikret Mammadov by noting that continued judicial reform and strengthened rule of law are key to Azerbaijan's long-term stability. The Minister thanked the Ambassador for bilateral cooperation and for active U.S. engagement on judicial reform, particularly in the process of examining and selecting new judges. He noted that the GOAJ has many judicial reform commitments with the Council of Europe, which he said the Ministry is gradually implementing. Mammadov said that several working groups, including experts, have been created within the MOJ. The working groups focus on issues such as judicial independence, training for judges, judicial ethics, and discipline. Mammadov briefed the Ambassador on the status of the newly-created Judicial-Legal Council, explaining that he was serving as its temporary Chair. He said that the Council is currently housed in the Ministry, but would soon move out, at which point he would relinquish the chairmanship.

13. (C) Mammadov said that a number of legislative changes regarding the court system have been made, in accordance with Azerbaijan's international commitments. For example, judges now serve a five-year probationary period, after which they may be appointed for life. The Ambassador inquired about the appointment of 55 judicial candidates who passed the fall 2005 judicial exam, which was determined by international observers to have met international standards. The Minister explained that he was trying to "clean up" the system so that the 55 judicial candidates could operate in a corruption-free

environment. "We have a lot of hopes riding on these 55 judges" he said. Mammadov hoped that these judges would be appointed by the end of July. The Ambassador said that the Embassy is prepared to provide training to new judges and judicial candidates, to which the Minister responded positively.

¶4. (C) The Minister noted the need to double the number of judges in Azerbaijan, and said that the current small pool of judges causes many problems, such as delays in trial proceedings. He said that 188 applicants are awaiting testing, but that the composition of the selection committee needs to be changed before they proceed. Mammadov acknowledged that corruption remains a problem in the judicial system, and said that a number of judges will be punished for unethical behavior. In fact, the Minister said, the recent flurry of judges who were disciplined or dismissed was because of corrupt behavior and complaints from citizens. So far, he said, 79 investigations have been opened, and as a result, 59 judges have been disciplined or dismissed. Mammadov agreed with the Ambassador that the Embassy's DOJ Resident Legal Advisor would follow up with a working-level MOJ staff member to sort out the details.

¶5. (C) Mammadov shared the Ministry's plans to build five to six new regional Courts of Appeal, to make the appeal process more accessible to the general population. The MOJ has already identified locations for several of the new courts, but is waiting for equipment and construction material to be allocated. Mammadov said that the MOJ has recently opened new economic courts in the regions of Sumgayit and Sheki. Further, he said that some of the World Bank's allocated USD 30.65 million will be used to construct 17 additional new courts, to which the Japanese Government and the GOAJ will

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also contribute funding. According to Mammadov, the MOJ has been working with Russian judicial officials to improve the MOJ's technology capabilities. The Minister envisions a computerized court system, in which defendants could find information about their hearings at the touch of a button. He noted that technology is an area in which U.S. assistance would be very welcome.

PRISON REFORM

¶6. (C) The Ambassador thanked the Minister for his cooperation in allowing an OSCE-led delegation to visit Azerbaijan's most notorious prison, Gobustan Prison One. Noting that some progress has been made, the Ambassador said that prison reform is important to bring Azerbaijan's jails up to international standards. The Minister agreed, and briefed the Ambassador on improvements in the prison system over the past two years, culminating in the dismissal of the previous head of the prison system. He said that this system used to be plagued with problems related to corruption, abuse of power, and violation of human rights. According to Mammadov, 40 prison officials have been prosecuted and "hundreds" have been dismissed. In response to international concerns about prison conditions, Mammadov said that several new prisons are being built, with plans to build more, including a new facility to replace Gobustan Prison One, where inmates serving life sentences are housed.

TRIAL ACCESS

¶7. (C) Thanking Mammadov for his assistance in pursuing Embassies' access to the ongoing trial of former Minister of Economic Development Farhad Aliyev, the Ambassador noted the importance of transparent conduct of trials, in accordance with international standards. She expressed U.S. concerns that other observers have still not been permitted courtroom

access, noting "the more observers the better." While Mammadov said he agreed that transparency in the courts is essential, he maintained that the MOJ cannot interfere in court proceedings, and said the decision of observers' access is up to the judge. Noting that there is limited space in court rooms, he said it was unfortunate that not all interested parties can access each trial. For example, Mammadov said, more than 1,000 witnesses are slated to testify during Farhad Aliyev's trial. (NOTE: Each day during Farhad Aliyev's trial, approximately 20 seats have been reserved for witnesses, who are permitted to sit in the courtroom while others testify.) Referring to court officials' initial barring of some journalists, the Minister said that Azerbaijani law operates on a basis of presumption of innocence, which he believes some journalists have violated by writing articles that are factually incorrect.

NGO REGISTRATION

¶8. (C) The Ambassador raised U.S. concerns with NGO registration, noting in particular the case of the Election Monitoring Center (EMC), a USAID implementing partner and past Democracy Commission Small Grants program grantee. She said that EMC has applied for registration with the MOJ five times over the past five years, each time unsuccessfully. If the Ministry's reluctance to register EMC was due to lingering concerns that EMC is affiliated with the opposition, the Ambassador said, EMC's neutrality and professionalism is an important factor in receiving Embassy funding. Accordingly, she said the Ministry should raise any concerns regarding the organization's neutrality with the Embassy. While noting that the registration denial was probably due to technical problems with EMC's application, Mammadov said that he was not aware of the details of EMC's case, but promised to look into the matter and follow up. However, he said that the MOJ has registered opposition-affiliated NGOs in the past, so even if EMC were so affiliated, it would not play a role in the registration decision.

LEGAL DATABASE

¶9. (C) The Ambassador inquired about the status of a USAID-created legal database, which, at the cost of approximately one million USD, had been completed early in ¶2006. The Minister said that the database is up and running - and publicly accessible on the Internet - and that he has allocated the staff necessary to update and maintain the website. However, he said, there is currently not sufficient

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workspace within the Ministry, so these staff members have not been able to begin their work. Mammadov anticipated that adequate space will be made available once the Judicial-Legal Council moves to a separate building, hopefully before the end of July. He agreed with the Ambassador that an Embassy USAID representative should follow-up with an MOJ staff member at a later date.

COMMENT

¶10. (C) Although Mammadov's attitude was positive, many of his claims of progress and plans for further reform were the same as those he outlined during his first meeting with the Ambassador nearly one year ago (see ref). For example, at that time he also had shared his plans to construct 17 new courthouses and to increase the number of judges. It is critical to Azerbaijan's democratic development that the MOJ implement its planned judicial reforms, most immediately by appointing the 55 judges who passed the fall 2005 exam. Additionally, although the MOJ reports an increasing percentage of NGOs registered each year, political and human rights organizations disproportionately experience problems

with the registration process, always because of cited technical problems with the application. We remain concerned that the Ministry is using administrative loopholes to deny NGOs registration for political reasons. We will continue to press the MOJ to address this issue.

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